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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,509	04/05/2001	John Hindman	ODS-37	6107
1473	7590	09/13/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			COBURN, CORBETT B	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

812

Office Action Summary	Application No.	Applicant(s)	
	09/827,509	HINDMAN ET AL.	
	Examiner	Art Unit	
	Corbett B. Coburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (US Patent Number 2,271,508) in view of Mindes (US Patent Number 5,573,244).

Claims 1, 17: Gordon teaches a method for providing the projected effects of wagering on pari-mutuel pools to a user in an interactive wagering system. The user provides input concerning a proposed wager that is associated with at least one pari-mutuel pool, pari-mutuel pool information, and the current odds for the proposed wager. The device calculates information that affects the user's potential winnings (i.e., the revised odds and payout) based on the user input and provides that information to the user. The device takes into account the amount of the proposed bet on the odds, thus providing the effect the proposed wager would have on the pari-mutuel pool to the player. (Col 3, 5-10)

Gordon's device calculates projected odds in real time using an analog computer. Prior to the player entering the proposed bet information, the system displays the current odds. The player enters a proposed bet on a particular horse into the computer via the input devices shown in Figs 2-4. This increases the resistance of the circuit to an amount that represents the total value of the pool *including the proposed bet*. The circuitry then

balances the resistance across the arms of the circuit to arrive at the projected odds. The projected odds are displayed to the player.

Gordon does not teach providing the information from the pari-mutuel pool over a communications link. Mindes teaches providing this information over a communications link. (Fig 1 clearly shows a network for transferring such data.) The use of communications links to provide data is extremely well known. Using a communications link ensures that all terminals have the same data. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Gordon in view of Mindes to transmit the data concerning the pari-mutuel pools via a communication link to ensure that all terminals have the same data, this ensuring the accuracy of the projected odds.

Claims 2, 18: The user input is a wager amount. (Figs 2-4)

Claims 3, 19: The user input comprises selection of a wager type (i.e., win, place, or show). (See Col 6, 13-30 for description of calculation of show odds.)

Claims 4-6, 20-22: Gordon teaches a calculator for figuring the current and projected odds for a particular horse in a particular race. This inherently comprises the selection of at least one horse in a race at a particular racetrack.

Claim 7: Gordon's information obtained is pari-mutuel pool information. (Col 1, 39-46)

Claim 8: Gordon's device can be used to determine current odds on a wager. (Col 1, 17-26)

Claim 9: Gordon's projected effect the proposed wager can have on the pari-mutuel pool is the projected odds for the proposed wager.

Claim 10, 23: Gordon teaches the invention substantially as claimed, but does not teach a telephone as the user interface. Mindes teaches providing input to a similar system via telephone. (Col 6, 29-32) Mindes describes the use of a digital electronic computer to calculate odds information. Use of a digital computer instead of the analog computer described in Gordon requires an appropriate method of data input. Furthermore, the telephone is a ubiquitous device – virtually every household has one. This allows access to the system by more people, thus increasing the possible profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have a telephone as a part of the user interface in order to provide an appropriate input device for a digital computer to replace the analog computer described in Gordon while ensuring that most people have access to the system, thus increasing profit potential.

Claims 12, 31: Gordon teaches that the projected effects are displayed to the user. (Col 3, 20-26)

Claims 11, 14, 16, 24, 25, 27: Gordon teaches showing the projected effect (i.e., announcing or displaying the projected effect) to the user.

Claims 13, 26: Mindes teaches a user interface that includes a set top box. (322)

Claim 15: Mindes teaches a user interface that includes a computer. (302)

Claims 28: Mindes teaches displaying information about the game in windows. (Col 6, 33-38) While not disclosed in connection with a set top box, these windows serve to separate the information concerning different races, thus reducing player confusion. It would have been obvious to one of ordinary skill in the art at the time of the invention to

have displayed the projected effects information in a window on a television in order to separate the information concerning different races, thus reducing player confusion.

Claim 29: Gordon teaches the invention substantially as claimed. Gordon teaches displaying both the current odds and the projected odds. The current odds are displayed prior to entering the proposed bet information and the projected odds are displayed by the calculator after entering the proposed bet information. Gordon does not teach displaying the odds in windows on a computer screen and toggling between current and projected odds screens. Mindes teaches displaying information about the game, including odds, in windows. (Col 6, 33-38) Mindes teaches that the window may occupy the entire screen. It is well known to toggle between windows that fill the entire screen.

Claim 30: Gordon's device is a computer.

Claims 32-62: Claims 32-62 are merely a restatement of claims 1-31 specifying electronic circuitry to perform the functions described therein. Gordon teaches the use of electronic circuitry to perform the input, calculation, or display functions, but does not teach use of a digital computer. Mindes teaches using an electronic digital computer (300) to perform such functions. Electronic digital computers are extremely well known to the art. They are used to automate manual functions involving input, calculation, and display of data. They are easier to program than analog computers and are more flexible. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used an electronic digital computer to perform the input, calculation and display functions described in order to replace the analog computer described in Gordon with a modern device that is easier to program and more flexible.

Response to Arguments

3. Applicant's arguments with respect to claims 1-62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. This is an RCE of applicant's earlier Application No. 09/827,509. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

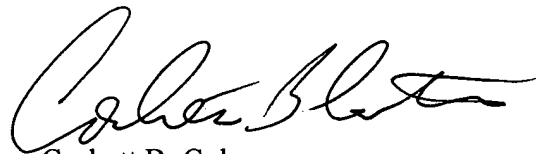
6. The amendment of the claims to include transmission of pool data over a communications link was so well known and so commonplace that it did not represent a *bona fide* attempt to further prosecution of the case. In our so-called “Internet Age”, it is obvious to transfer data over a communication network – the concept is ubiquitous. Furthermore, the reference used in the rejection under 35 USC §103 was clearly a network that transmitted data concerning wagering pools over a communications link.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s primary, Jessica Harrison can be reached on (571) 272-4449. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Corbett B. Coburn', is positioned above the printed name.

Corbett B. Coburn
Examiner
Art Unit 3714